

SERVICE DATE – NOVEMBER 19, 2018

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 6 (Sub-No. 495X)

BNSF RAILWAY COMPANY—ABANDONMENT EXEMPTION—IN FLATHEAD
COUNTY, MONTANA

Decided: November 16, 2018

BNSF Railway Company (BNSF) filed a petition seeking an exemption under 49 U.S.C. § 10502 from the provisions of 49 U.S.C. § 10903 to abandon a 2.7-mile rail line extending from milepost 1225.19 to the south end of the line at milepost 1227.58 and to the west end of the line at Engineering Station 189+36 (milepost 1227.10), in Kalispell, Flathead County, Mont. (the Line). Notice of the exemption was served and published in the Federal Register on May 16, 2017 (82 Fed. Reg. 22,603).

By decision and notice of interim trail use or abandonment (NITU) served on August 14, 2017, the Board granted the abandonment exemption and imposed a number of conditions, including an historic preservation condition under Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108, recommended by the Board's Office of Environmental Analysis (OEA). The historic preservation condition requires that, with respect to the portion of the Line from milepost 1226.79 to mileposts 1227.10 and 1227.58, BNSF shall (a) not initiate any salvage activities related to abandonment (including removal of tracks and ties) and shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process has been completed; (b) report back to OEA regarding any consultations with the SHPO and the public; and (c) not file its consummation notice for any portion of the Line until the Section 106 process has been completed and the Board has removed this condition.

In a Supplemental Final Environmental Assessment dated October 24, 2018, OEA states that it received from BNSF a cultural resource inventory report prepared by Western Cultural, Inc. Based on the report, OEA determined that the abandonment would not adversely affect historic properties listed in or eligible for inclusion in the National Register. OEA forwarded the report with its determination to the Montana Historical Society (SHPO), which concurred with OEA's determination of no adverse effect by letter dated October 17, 2018. OEA, therefore, recommends that the Section 106 condition be removed.

Accordingly, based on OEA's recommendation, this proceeding will be reopened and the previously imposed historic preservation condition will be removed.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the Section 106 historic preservation condition imposed in the August 14, 2017 decision is removed.
3. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.